

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

Civil Action No. 7:19-CV-97

JENNY G. BEARD

Plaintiff,

vs.

TOWN OF TOPSAIL BEACH, TOWN OF
TOPSAIL BEACH POLICE DEPARTMENT and
OFFICER JACOB ALLEN, in His Individual and
Official Capacities,

Defendants,

**MOTION TO STRIKE AND MOTION
TO MODIFY CASE MANAGEMENT
ORDER**

NOW COMES the Defendants Town of Topsail Beach (the “Town”), Town of Topsail Beach Police Department (“TBPD”) and Officer Jacob Allen, in His Individual and Official Capacities (“Officer Allen”), by and through the undersigned counsel of record, and respectfully move the Court for an Order striking Plaintiff’s purportedly designated experts, or alternatively compelling proper designation, and modifying the Case Management Order [DE #22] previously filed herein. In support thereof, Defendants respectfully show the Court as follows:

1. Plaintiff served a purported expert designation by mail on January 1, 2020, said designation attached hereto as Exhibit 1 and incorporated herein by reference;
2. On or about January 16, 2020 the undersigned counsel for Defendant forwarded correspondence to Plaintiff’s counsel which is attached hereto as Exhibit 2 and incorporated herein by reference;

3. On or about January 16, 2020 the undersigned counsel for Defendants forwarded to Plaintiff's counsel, with Exhibit 1, an OBJECTION to Expert to Witness Disclosure that is attached hereto as Exhibit 3 and incorporated herein by reference;
4. The envelope containing Exhibits 2 and 3 were returned to the office of the undersigned by the United States Postal Service due to a typographical error and were again mailed to Plaintiff's counsel under cover of correspondence dated January 27, 2020 attached hereto as Exhibit 4 and incorporated herein by reference;
5. Exhibits 2 and 3 were thereafter forward to Plaintiff's counsel via email on January 28, 2020 as evidenced by the email correspondence attached hereto as Exhibit 5 and incorporated herein by reference;
6. The undersigned counsel for Defendant again wrote to Plaintiff's counsel by email and regular mail on February 12, 2020, a copy of said correspondence and the email transmission attached hereto as Exhibit 6 and incorporated herein by reference;
7. Plaintiff's Expert Witness Disclosures are deficient and defective and fail to comply with the Case Management Order or the Rules of Civil Procedure for the reasons set forth in Exhibits 2 and 3 attached hereto and for all other reason as applicable; and
8. Defendants cannot adequately assess the need for expert witnesses or the subject matter on which witnesses would be needed to provide expert opinions until and unless Plaintiff properly and completely discloses experts in accordance with the Case Management Order or the Rules;

WHEREFORE, based upon the forgoing, Defendants respectfully move the Court for an Order striking any and all experts purportedly designated by Plaintiff. Alternatively, Defendants respectfully move the Court for an Order compelling Plaintiff to make complete

and proper designations of expert witnesses. Defendants further move the Court for an Order modifying the Case Management Order so as to allow Defendants thirty days from either Plaintiff's complete and proper supplementation of her expert witness disclosures or the entry of an Order on the Defendant's motions regarding expert witnesses, whichever occurs sooner. Defendants further request the Court for such other and further relief as may be deemed just and proper.

Respectfully Submitted, this the 14th day of February, 2020.

CROSSLEY MCINTOSH COLLIER HANLEY & EDES, PLLC

/s/ Clay Allen Collier
Clay Allen Collier
NC State Bar No. 13266
5002 Randall Parkway
Wilmington, NC 28403
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CERTIFICATE OF SERVICE

I hereby certify that on 14th day of February, 2020, I served a copy of the foregoing **Motion to Strike** was filed with the Clerk of Court on the Court's CM/ECF electronic filing system, which will electronically serve the following counsel for the parties:

Christopher Anglin, Esq.
Anglin Law Firm
PO Box 91746
Raleigh, NC 27609

This the 14th day of February, 2020.

/s/ Clay Allen Collier
Clay Allen Collier